DC 1/21/87 Rough of Complaint (variable sheet prev. sent) Tech. Schmidt 1031 RUSH

VIA CERTIFIED MAIL

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

BEFORE THE INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

IN THE MATTER OF THE COMMISSIONER, INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT,

Complainant

vs.

AM GENERAL CORPORATION

Respondent

CAUSE NO. _____

RECEIVED
JAN 30 1987
SOLID WASTE BRANCH
U.S. EPA, REGION V

TO: _____

This is a _____ under IC 13-7-11 of the Indiana Environmental Management Act and IC 4-22-1, the Indiana Administrative Adjudication Act. The Complainant is the Commissioner of the Indiana Department of Environmental Management (Department). The Respondent is AM General Corporation, a company authorized to do business in Indiana, which operates a place of business at Mishawaka, Indiana. Respondent's EPA I.D. number is IND981091515.

Pursuant to IC 13-7-11 and based on an investigation of the facility conducted on December 12, 1985, and September 25, 1986, by Messrs. Larry Studebaker and Robert Autio of the Office of Solid and Hazardous Waste Management (OSHWM) of the Department, it has been determined that the Respondent is in violation of the Indiana _____, IC _____, and 320 IAC 4.1.

Findings

This determination is based on the following Findings:

1. Pursuant to 320 IAC 4.1-20-1(a), the owner or operator of a surface impoundment, landfill, or land treatment facility which is used to manage hazardous waste must implement a groundwater monitoring program capable of determining the facility's impact on the quality of groundwater in the uppermost aquifer underlying the facility.

2. In order to adequately review and evaluate a groundwater monitoring program, certain hydrogeological data is necessary to determine if the groundwater monitoring system is, or would be, capable of detecting a facility's impact on the underlying groundwater. This data must be compiled in a formal report that has been prepared by a reliable Certified Professional Geologist or geotechnical engineer, and it should include information from various resources such as the U.S. Geological Survey, Indiana Geological Survey, Indiana Department of Natural Resources--Division of Water, U.S. Department of Agriculture--Soil Conservation Service and detailed, site-specific hydrogeological data. Based on information gathered by the Department, the following item(s) were found to be missing or inadequate in Respondent's hydrogeologic report during this inspection and/or record review and are listed below:

3.a. The RMT Report of September 1983 "Date Base Report Groundwater Assessment for the AM General Mishawaka Plant," Appendix B did not clearly specify whether wells they installed had sand/gravel packs in them and if so, no specifications were given.

a. No borehole depths or diameters were cited.

b. There were no construction logs submitted for well Nos. 1A, 3A, 28B, B101, B102, 27, 30A, 30B, SW1, 32A, 32B, 31A, and 31B.

c. No slot size (screen) or ground elevation was submitted for well No. 26.

d. Screen slot size and gravel pack specifications were not submitted for hatchery wells.

e. Horizontal groundwater flow velocities were not determined or submitted.

4. Procedures used by your facility personnel/consultant during the sampling inspection which may adversely affect the sampling results and thus, may not accurately reflect the facility's impact on the underlying groundwater are listed below:

a. Measured well depth significantly differs from originally constructed well depth. Failure to determine whether a well is silting-in and/or failure to redevelop one that has silted-in prevents proper sample collection at depths where appropriate aquifer flow zones exist.

b. The purging equipment was not thoroughly decontaminated between wells. Without proper decontamination of equipment, well samples may become cross-contaminated and, therefore, tests may yield inaccurate results.

c. Occasionally, during the sample collection the purging/sampling equipment touched the ground or other contaminated surface. This in turn could introduce "foreign" contaminants to the well or sample bottle and thus, yield erroneous analytical results.

d. Sample person did not wear clean protective gloves at each well head while collecting the groundwater samples. This may cause possible contamination of samples if the sample water flows or splashes on the sample person's hand prior to entry into the sample container. Likewise, if the groundwater sample is already contaminated, the sample person's hands would be protected from contact with that water.

e. Water levels were measured again after purging, which could introduce possible contamination into the well water. Ref. The purging device was allowed to fall freely (uncontrolled) into the well prior to collecting the sample. This may cause degassing of the water upon impact.

g.

f. Collection time and preservative used were not placed on bottle labels.

g. Well TWC do/does not have a protective casing(s) and/or locking cap(s). This condition may allow damage, vandalism, or tampering to the well casing or the well water.

25. Pursuant to 320 IAC 4.1-20-3(a), the owner or operator must obtain and analyze samples from the installed groundwater monitoring system. The owner or operator must develop and follow a groundwater sampling and analysis plan. He must keep this plan at the facility. The plan must include procedures and techniques for:

(1) sample collection;
(2) sample preservation and shipment;
(3) analytical procedures; and;
(4) chain of custody control.

[Note: See "Procedures Manual for Groundwater Monitoring at Solid Waste Disposal Facilities," EPA-530/SW-611, August 1977 and "Methods for Chemical Analysis of Water and Wastes," EPA-600/4-79-020, March 1979 for discussions of sampling and analysis procedures.]

Based on information gathered by the Department, Respondent's Sampling and Analysis (S/A) Plan did not adequately describe procedures and techniques for:

indent once

a. Sample Collection--This portion of the plan must thoroughly describe all aspects of sample collection to include but not necessarily be limited to detailed well and water depth measuring procedures (include measuring equipment) and calculation of purging volumes and/or pump rates (include purging equipment), equipment used for

sampling, specific decontamination procedures for all equipment, provisions for the use and collection of blank and duplicate samples, special handling considerations for organics and sampling of immiscible layers (if applicable), filter techniques, etc. Without this information being thoroughly described in the S/A Plan, and documented on fieldsheets for each well at each sampling event, it is difficult to ensure the consistency of groundwater sampling techniques and thus may cause variability in analytical results.

b. Sample Preservation and Shipping-- This portion of the S/A Plan must thoroughly describe all aspects of sample preservation and shipment procedures. These procedures should include but not necessarily be limited to equipment used for sample preservation, amount and types of preservative used for each parameter, type and volume of sample containers for each parameter, packing preparation for shipping of samples to the analytical lab, etc. Without this information being thoroughly described in the S/A Plan, and documented on field sheets and sample bottles for each well for each sampling event, it is difficult to ensure that consistency and proper preservation procedures have been followed and thus may cause variability and/or inaccuracy in analytical results.

c. Chain of Custody Control--This portion of the plan should thoroughly describe a program capable of tracing the possession and handling of individual samples from the time of field collection through lab analysis. The plan must include but not necessarily be limited to the following:

-- Sample labels which prevent misidentification of samples, and must include, at a minimum, time and date when sample was collected; preservative type and amount; well I.D.; and type of analysis to be performed on that sample. Each sample bottle taken at each well must have this information on it.

-- Sample seals and/or shipment container seals to preserve the integrity of the sample from the time it is collected until it is opened in the laboratory.

-- Field logbook to record information about each sample collection during the groundwater monitoring program. A field sheet must be completed for each well for each sampling event, and it should include, at a minimum, all water level and total depth information; calculations of volumes purged; number, type, and sized of each bottle filled at each well head; sampler's name; time and date of collection; unusual observations about the sample; preservatives added; and filtering procedures.

-- Chain-of-custody form to establish the documentation necessary to trace sample possession from the time of collection to time of analysis.

-- Sample analysis request sheets which serve as official communication to the laboratory of the particular analysis(es) required for each sample and provide further evidence that the chain-of-custody is complete.

-- Laboratory logbook which is maintained at the laboratory and records all pertinent information about the sample.

Without this information being thoroughly described in the S/A Plan and followed by field and lab personnel then possession of the samples becomes questionable and thus their integrity may be refuted.

10. During the Sampling Inspection, it was noted that the sample person did not follow your facility's S/A Plan. The following deviations from the plan were noted:

a. Water levels were measured again after purging.

b. Bottom emptying device is not dedicated to each well. Some wells do not have dedicated bailers. Collection time was not put on bottle labels. Bailers used for multiple wells ~~would be~~ were put in same bag. Sample container size ~~would be~~ was 125 ml. Seals were not used on coolers.

Insert variable 108 here, as #3,

a. ~~Clarify~~ The statistical test (in Post-Closure Plan) that would trigger ~~ing~~ further remediation ~~has not been clarified.~~

11. Pursuant to 320 IAC 4.1-20-(5)(b)(2), if the groundwater is monitored to satisfy the requirements of 320 IAC 4.1-20-4(d)(4), the owner or operator must annually, until final closure of the facility, submit to the Technical Secretary, a report containing the results of his or her groundwater quality assessment program which includes, but is not limited to, the calculated (or measured) rate of migration of hazardous waste or hazardous waste constituents in the groundwater during the reporting period. This information must be submitted no

later than March 1 following each calendar year. Based on information gathered by the Department, Respondent did not submit by March 1 of each calendar year, an annual report to the Technical Secretary containing the results of the groundwater quality assessment program which includes, but is not limited to, the calculated rate of migration of hazardous waste or hazardous waste constituents during the reporting period.

Proposed Final Order

The Complainant hereby informs the Respondent that the following is the Final Order of the Commissioner to be effective thirty (30) days following Respondent's receipt of this Complaint, unless modified or objected to as hereinafter provided:

12. Within forty-five (45) days of receipt of the Commissioner's Final Order, Respondent shall submit to OSHWM clarification as to whether sand/gravel packs were used in the monitoring wells and if so, submit specifications of them; borehole depths and diameters; construction logs for well Nos. 1A, 3A, 28B, B101, B102, 27, 30A, 30B, SW1, 32A, 32B, 31A, and 31B; screen slot size and ~~gavel~~ round elevation for well No. 26; screen slot size and gravel pack specifications for the hatchery wells; and horizontal groundwater flow velocities.

13. Respondent shall assure that well Nos. 8A, 8B, 6C, 22, and 17B, which have "silted-in" greater than two feet of the original well depth, are redeveloped prior to the next sampling event and maintained as such throughout the life of the monitoring program.

3. ~~14.~~ Respondent shall assure that all depth-measuring, purging, sampling, and/or filtering equipment is thoroughly decontaminated between wells, with a minimum of three distilled water rinses using fresh distilled water for each rinse.

4. ~~15.~~ Respondent shall assure that all efforts are made to avoid contact between contaminated surfaces and purging, sampling, and/or filtering equipment.

5. ~~16.~~ Respondent shall assure that field personnel working directly with the water samples wear clean protective gloves at each well head.

6. ~~17.~~ Respondent shall assure that measuring devices are decontaminated before placing them in wells after wells are purged.

7. Respondent shall assure that the purging devices are slowly lowered into the wells prior to collecting samples to minimize the impact into the water.

8. Respondent shall assure that collection time and preservative used are placed on bottle labels.

9. ~~18.~~ Within seventy-five (75) days of receipt of the Order, Respondent must assure that protective casings ~~are~~ installed around wells and/or locking caps or other devices to prevent damage or tampering of the well.

19. Within forty-five (45) days of receipt of the Order, Respondent shall submit a revised Sampling and Analysis Plan that thoroughly describes all aspects of the facility's monitoring procedures, equipment, and/or methods to specifically include the following:

a. Sample collection procedures

b. Sample preservation and shipping procedures

c. Chain-of-custody control (including a sample chain-of-custody form)

11. ~~d.~~ Respondent shall assure that all sampling personnel strictly follow Respondent's S/A Plan. In this effort, the sampler must have a copy of the plan near the well head for quick reference.

12. ~~e.~~ The proper t-Test calculation(s) to determine whether a statistically significant difference has occurred among wells shall be the Cochran's Approximation of the Behrens-Fisher Student's t-test (CABF) and/or the Averaged Replicate t-test (AR). The formula used shall be stated in each Annual Groundwater Report and the calculations shall be submitted in their entirety for staff review.

12, 13, ~~20~~. Within thirty (30) days of receipt of the Commissoner's Final Order, Respondnet shall submit the specific statistical test being applied to analytical data to determine statistical differences between upgradient and downgradient wells.

21. Within thirty (30) days of the effective date of the Commissioner's Final Order, Respondent shall pay to the Environmental Management Special Fund, as a civil penalty for the above violations, the sum of $__________.

The penalty consists of the following:

____

____

____

22. In addition to the civil penalty imposed above for violations existing at the time of issuance of this Complaint, the Respondent shall pay an additional civil penalty of $________ per day for each day of noncompliance with the time limits established pursuant to this Order.

<u>Effect of Immediate Compliance</u>

The Complainant recommends that the Respondent begin action immediately to comply with the above Proposed Final Order prior to the effective date of the Order. While such action will not result in mitigation of the civil penalty, as proposed, compliance may prevent the imposition of additional penalties for continued violations.

The Commissioner is authorized to assess civil penalties of up to $25,000 per day for each violation pursuant to IC 13-7-13-1. Therefore, the civil penalty proposed above, if any, which was based upon the factual circumstances existing prior to issuance of this Complaint, is subject to revision prior to the effective date of this Order based upon continued violations.

Notice of Opportunity for Administrative Review

The Respondent is hereby notified, pursuant to IC 4-22-1-23, and IC 13-7-11, that the foregoing Proposed Final Order will be effective thirty (30) days following Respondent's receipt of this Complaint as the Final Order of the Commissioner, unless the Respondent files with the Commissioner, prior to the effective date of the Order, either:

1. A written request for administrative review of the Order by the Solid Waste Management Board (Board) pursuant to IC 13-7-11-5, or

2. A written request for an extension in time within which to file the request for administrative review.

The request for administrative review should be in the form of a written answer to the above Findings, may include objections to the imposition of the Proposed Final Order, and should request that the Board conduct a hearing pursuant to IC 4-22-1 in order to review the Commissioner's Order. The Respondent's answer should clearly and directly admit, deny, or explain each of the factual allegations set out in the Findings of which it has knowledge. Failure to respond to any factual allegations will be deemed an admission of the truth of the allegation.

All papers and pleadings required to be filed with the Commissioner should be sent to:

Ms. Sue A. Shadley
Chief Legal Counsel
Indiana Environmental Management Board
105 South Meridian Street
P.O. Box 6015
Indianapolis, IN 46225-6015

Copies of all pleadings or other papers filed with the Commissioner should be served upon all other parties or their attorney, including the Attorney General of Indiana. The Respondent is entitled to be represented by an attorney. If representation is obtained, written appearance of counsel should be promptly filed.

Informal Settlement Conference

Whether or not Respondent requests administrative review, pursuant to IC 13-7-11-5, Respondent may confer informally with the Department and a representative of the Attorney General's Office concerning the allegations or requested relief set out in this Complaint. Respondent may request an informal settlement conference at any time by contacting _____ of the Office of Solid and Hazardous Waste Management at AC 317/_____. However, any such request will not affect the time limit for requesting administrative review.

The Commissioner encourages all parties to pursue the possibilities of settlement through the informal settlement conference prior to seeking formal administrative review. Arrangements for rescheduling of informal settlement conference times or dates should be made by contacting _____ at AC 317/_____.

Dated at Indianapolis, Indiana, this _____ day of _____, 1987.

_____
Nancy A. Maloley
Commissioner

cc: Office of the Attorney General
Attn: Mr. Harry Watson, III
Ms. Sally Swanson, U.S. EPA, Region V
St. Joseph ~~La Porte~~ County Health Department
Ms. Sue Shadley
Mr. Thomas Russell
Ms. Pat Vogtman, U.S. EPA, Region V
bcc: Mr. Robert Autio
Mr. Wayne Penrod

KS/td

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